

Client Alert: Brexit and Bribery and Corruption

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Will the law change?

The heart of the UK's anti-bribery legislation, the Bribery Act 2018, is UK-originated legislation and, as a result, the basics of anti-bribery law in the UK will not be affected by Brexit.

The UK has long been a leader in the fight against corruption – the first specific anti-bribery legislation came in in the UK in 1889. You can find out more about the Bribery Act 2010 in our FAQs here (<http://www.corderycompliance.com/uk-bribery-act-2010-faqs/>).

As a result, there is likely to be little change. The UK Bribery Act 2010 isn't part of a body of EU legislation and the UK bribery prosecutors are independent of the EU regime.

What about enforcement?

The UK Bribery Act 2010 has extra-territorial reach and it is already possible for a non-UK EU national to be prosecuted in the UK and for a UK national to be prosecuted for events which took place in the EU. As we've said, prosecutions under the Bribery Act 2010 are by the UK authorities and not the EU.

However, corruption at an EU level, for example corruption at the European Commission, is currently investigated by an EU body known as OLAF (Office Européen de Lutte Antifraude). OLAF is based in Brussels. OLAF also assists Member States in setting their anti-corruption policy.

The UK Government is currently at odds with OLAF as it disputes its findings in an investigation into the duty on Chinese shoes. Given OLAF's fairly limited role in UK business however, this is unlikely to be a major compliance issue for most businesses.

What about future prosecutions?

UK investigations traditionally rely on prosecutors in a number of other countries to help bring bribe payers and bribe receivers to justice. An example is the Rolls-Royce DPA which we wrote about here (<http://www.corderycompliance.com/client-alert-rolls-royce-case-sends-a-strong-signal/>). However, that co-operation is unlikely to be impacted by Brexit. For example the Swiss authorities have featured in a number of recent cases and Switzerland is not in the EU.

One possible affect could be on an EU that doesn't include the UK. Some countries in the EU have recently updated their own anti-bribery laws, including France with the implementation of Sapin II (<http://www.corderycompliance.com/france-adopts-new-sapin2-anti-corruption-law/>), but other EU Member States still have much to do. Often in this context OECD pressure is heavier than EU pressure but one voice arguing more enforcement will have been lost from the EU.

What about the conflicts between anti-bribery enforcement and GDPR?

We have seen potential conflicts in investigations between data protection law and the investigation of bribery offences. We spoke about this in our talk with Chris Dale here (<http://www.corderycompliance.com/client-alert-implications-of-the-gdpr-for-ediscovery/>) and we have outlined some of the issues in our Bribery Act 2010 FAQs.

These challenges are likely to remain post-Brexit since there will be little change in data protection law. Our alert here (<http://www.corderycompliance.com/brexit-and-data-protection/>) gives more details.

Summary

In summary then, Brexit may not have as significant an impact on this area as in other aspects of compliance.

For further information

You can also find our alerts on other Brexit topics here (<http://www.corderycompliance.com/?s=brexit>). We also have a Brexit Newswire. If you are interested in our Brexit Newswire please email André Bywater on the address below.

See also our short film [here](#) on Brexit and Compliance where André Bywater & Jonathan Armstrong discuss how compliance might change post-Brexit. They look at a number of distinct areas of compliance including modern slavery, sanctions and data protection and walk through what businesses might want to do now to make sure they comply.

For more information please contact André Bywater or Jonathan Armstrong who are lawyers with Cordery in London where their focus is on compliance issues.

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